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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of ) MM DOCKET NO. 92-106  
JEFFERY SCOTT ) File No. BPH-910213ME  
EICHER COMMUNICATIONS, INC. ) File No. BPH-910213MF  
For Construction Permit for a )  
New FM Station on Channel 278 )  
at Bethany Beach, Delaware )  
To: Administrative Law Judge  
Richard L. Sippel

**MASS MEDIA BUREAU'S COMMENTS IN SUPPORT OF  
JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

1. On June 3, 1992, Jeffery Scott ("Scott") and Eicher Communications, Inc. ("Eicher"), filed a "Joint Request for Approval of Settlement Agreement" and on June 16, 1992, Eicher filed a Supplement to the Joint Request. Also on June 3, 1992, Scott filed a "Petition for Leave to Amend." The Mass Media Bureau submits the following comments in support of the Joint Request, as supplemented, and the Petition for Leave to Amend.

2. The settlement agreement contemplates the grant of Scott's application and the dismissal of Eicher's application in return for the payment of Eicher's legitimate and prudent expenses in an amount not to exceed \$18,000. In addition, the parties have entered into a consulting agreement whereby Scott will pay Eicher \$17,000 to provide broadcast station financial planning and management services to Scott for one year.

3. Review of the settlement agreement and the accompanying attachments reveals that the applicants have filed the documentation required by Section 73.3525 of the Commission's

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Rules, which implements Section 311(c) of the Communications Act of 1934, as amended. Specifically, in addition to the agreement, they have filed appropriate declarations from a principal of each party to the agreement which state that the respective applications were not filed for an improper purpose and that grant of the Joint Request would be in the public interest because it would expedite the provision of a new FM service to Bethany Beach, Delaware. In addition, Eicher has set forth an itemization demonstrating that its legitimate and prudent expenses incurred in this proceeding are in excess of \$18,000.

4. The consulting agreement provides that Eicher will provide financial planning and management services to Scott over the next year in return for payments totalling \$17,000. Eicher is a Certified Public Accountant with experience in financial accounting and forecasting matters. Based on the terms of the consulting agreement, it appears that it is a bona fide arrangement for Eicher to provide services to Scott and that Eicher is qualified to perform those services. See, Texas Television, Inc., 91 FCC 2d 1043 (Rev. Bd. 1982). Accordingly, the Bureau has no objection to the consulting agreement.

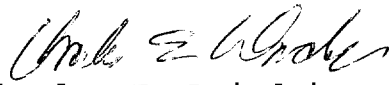
5. In his amendment, Scott provides the environmental assessment called for in paragraphs 5 and 12 of the Hearing Designation Order, DA 92-559, released May 14, 1992 (HDO). Consistent with current practice, the Audio Services Division will comment on the environmental assessment by a separate letter to the Presiding Judge. Scott also proposes to withdraw his

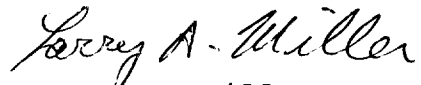
integration proposal and his voluntary proposal to make his interest in Great Scott Broadcasting, licensee of WZBH(FM), Georgetown, Delaware, nonattributable. However, Scott states that he will comply with the condition contained in paragraph 13 of the HDO which requires him to come into compliance with Section 73.3555 of the Commission's Rules. Scott's withdrawal of his integration and divestiture commitments are timely and should be accepted. See, Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, 6 FCC Rcd 157 (1990), recon. granted in part, 6 FCC Rcd 3403 (1991).

6. In view of the foregoing, the Bureau supports grant of the Joint Request, approval of the settlement agreement, dismissal of the application of Eicher, grant of Scott's Petition for Leave to Amend, acceptance of Scott's amendment, and grant of

Scott's application, as amended, provided that the contingent environmental issue is favorably resolved by Scott.

Respectfully submitted,  
Roy J. Stewart  
Chief, Mass Media Bureau

  
Charles E. Dziedzic  
Chief, Hearing Branch

  
Larry A. Miller  
Attorney  
Mass Media Bureau

Federal Communications Commission  
2025 M Street, N.W.  
Suite 7212  
Washington, D.C. 20554

June 18, 1992

**CERTIFICATE OF SERVICE**

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 18th day of June, 1992, sent by regular United States mail, U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments in Support of Joint Request for Approval of Settlement Agreement"** to:

Stephen Diaz Gavin, Esq.  
Besozzi & Gavin  
1901 L Street, N.W.  
Suite 200  
Washington, D.C. 20036

Dennis P. Corbett, Esq.  
Leventhal, Senter & Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006

Michelle C. Mebane  
Michelle C. Mebane